

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

ANTHONY PAUL ACOSTA,
Plaintiff,

vs.

OLD 77 TRUCKING,
Defendant.

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C.A. No. 1:16-CV-00952

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

Defendant OLD 77 TRUCKING files this Notice of Removal under 28 U.S.C. §§ 1441, 1446 and 1332, and shows the following.

I.
INTRODUCTION

1.1 On June 23, 2016 Plaintiff Anthony Paul Acosta ("Acosta") filed a personal injury lawsuit against Defendant as Cause No. 16-1236, in the 22nd Judicial District Court of Hays County, Texas. Plaintiff alleges he suffered injuries as a result of Defendant's trailer crushing his lower extremities. See Plaintiff's Original Petition, ¶¶4.1, 5.1, and 6.1. In accordance with Rule 47 of the Texas Rules of Civil Procedure, Plaintiff's Original Petition affirmatively plead monetary relief over \$1,000,000.00. See Plaintiff's Original Petition ¶1.2.

1.2 The state court action is one over which this Court has original jurisdiction under the provisions of 28 U.S.C. §§1332, and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. §1441, in that it is a civil action wherein the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and cost, and is between citizens of different states.

II.
THE PARTIES

2.1 Plaintiff is a citizen of the State of Texas and a resident of Hays County, Texas at the time this action commenced. See Plaintiff's Original Petition ¶3.1.

2.2 Defendant is a d/b/a of Raymond E. Sveeggen, who is a resident of Beresford, South Dakota, and is not a citizen of the state of Texas.

III.
PROCEDURAL REQUIREMENTS FOR REMOVAL

3.1 Removal is timely, as Defendant was served with Plaintiff's Original Petition on July 9, 2016, which is less than thirty days from this date.

3.2 Upon filing of this Notice of Removal, written notice of this filing is being given by the removing defendant to Plaintiff and Plaintiff's counsel as required by law. A copy of this Notice is also being filed with the Clerk of the Court in Hays County, Texas, where the cause was originally filed. A copy of all processes, pleadings, and orders are being filed contemporaneously with this Court pursuant to 28 U.S.C. §1446(a).

IV.
VENUE

4.1 Venue in this district is proper because the Western District of Texas, Austin Division, embraces Hays County, where the original lawsuit is pending. 28 U.S.C. §1441(a).

V.
JURISDICTIONAL BASIS FOR REMOVAL

5.1 Removal is proper pursuant to 28 U.S.C. §1332 because there is complete diversity between the parties and Plaintiff seeks damages in excess of \$75,000.

5.2 Defendant is a d/b/a of Raymond E. Sveeggen, who is a resident of Beresford, South Dakota. For purposes of diversity, Defendant is not a citizen of the state of Texas.

5.3 With regard to the amount in controversy, Plaintiff's Original Petition expressly pleads damages over \$1,000,000. See Plaintiff's Original Petition ¶1.2.

VI.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant OLD 77 TRUCKING prays that this Notice of Removal be deemed sufficient and that the proceedings attached hereto be removed from the 22nd Judicial District Court of Hays County, Texas, to the docket of this Honorable Court.

Respectfully submitted,

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By: 
ROBERT A. VALADEZ, Attorney-in-Charge
State Bar No. 20421845

COUNSEL FOR DEFENDANT
OLD 77 TRUCKING

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and foregoing was electronically filed and served in accordance with Federal Rules of Civil Procedure on the 8th day of August, 2016, to counsel of record as follows:

Peter Mills
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